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**JUN 28 2006**

**OFFICE OF PETITIONS**

In re Application of  
Tonar et al.  
Application No. 10/085,434  
Filed: February 28, 2002  
Attorney Docket No. GEN-001323C3

DECISION ON PETITION

This is a decision on the renewed petition under 37 CFR 1.181, filed May 19, 2005 (certificate of mailing dated Monday, May 15, 2006), to withdraw the holding of abandonment.<sup>1</sup>

On June 2, 2004, the Office mailed a final Office action, which set a three-month shortened statutory period for reply. In the absence of a timely filed response, the application became abandoned on September 3, 2004. On February 8, 2005, the Office mailed a Notice of Abandonment.

Petitioner requested that the Office withdraw the holding of abandonment due to non-receipt of the final Office action mailed on June 2, 2004. The practitioner attested that a search of the file jacket and docket records indicated that the original final Office action was not received. In support of his assertion, the practitioner submitted a print out of the docket record for this application, indicating that no entry exists for the Office action. The practitioner asserted that no reply period existed in the docketing system because the final Office action, which included allowed claims, was never received. The practitioner stated that the lack of any such data in the section entitled "Reminder List for this Case" indicated that the Office action was not received. Moreover, the practitioner provided an explanation of the system for docketing USPTO communication.

Upon further review, the petition to withdraw the holding of abandonment is **GRANTED**.

Technology Center Art Unit 1712 has been advised of this decision. The matter is being referred to the Technology Center's technical support staff for mailing of a new final Office Action. The three (3) month shortened statutory time period for responding to the final Office Action will be set to run from the mailing date of the new final Office Action.

<sup>1</sup> Petitioner submitted a request for an extension of time for response within the first month and paid the necessary fee. Therefore, the renewed petition is filed timely

Telephone inquiries related to this decision may be directed to the undersigned at (571) 272-3211.

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